

REMARKS/ARGUMENTS

Claims 26-53, 56-61 and 64-68 are pending. New Claim 68 finds support in the specification on page 11, line 24-page 13, line 25. Accordingly, the Applicants do not believe that any new matter has been added. Favorable consideration is now respectfully requested.

The Applicants thank Examiner Katcheves for the courteous and helpful discussion of August 27, 2004. The Examiner requested that the Applicants point out descriptive support for Claim 46, directed to a particular vector. The vector of Claim 46 finds support in the specification at page 19, lines 9-10. This vector is contained in *E. coli* strain TOP10F/pCR2.11ysR2int as DSM 13617, which has been deposited under the conditions of the Budapest Treaty. As required by 37 C.F.R. 1.808, subject to the one exception permitted by 37 C.F.R. 1.808(b), all restrictions imposed by the depositor on the availability to the public of the deposited material will be irrevocably removed upon granting of the patent. See MPEP 2410.01. The claims have been revised without prejudice as suggested for facilitating the identification of allowable subject matter.

Election/Restriction

The Applicants note that the Restriction Requirement has been made FINAL. The Applicants respectfully request that examination be extended beyond the elected species *dapA*, upon an indication of allowability for the generic claims.

Application No. 09/826,909
Reply to Office Action of June 3, 2004

Rejection—35 U.S.C. 112, first paragraph

Claims 25-51 were rejected under 35 U.S.C. 112, first paragraph, as lacking adequate description. This rejection is moot in view of the amendments above.

Rejection—35 U.S.C. 112, second paragraph

Claims 54, 62, 66 and 67 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. This rejection is moot in view of the amendment above.

Allowable Subject Matter

The Applicants thank Examiner Katcheves for indicating that the subject matter of Claims 52, 53, 55-61 and 63-65 is otherwise in condition for allowance.

CONCLUSION

In view of the above amendments and remarks, the Applicants respectfully submit that this application is now in condition for allowance. Early notification to that effect is earnestly solicited.

Respectfully submitted,

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